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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Third periodic report of States parties due in 1991

Addendum

Netherlands*

[supplementary report submitted on 9 May 2001]

* The attached document was entitled "fourth supplementary periodic report of Aruba". After consultation with the State party, it was however agreed to issue it as an addendum to the third periodic report, issued under document code CCPR/C/NET/99/3; the present document supplements the information in the third periodic report, Part V (Aruba) (paras. 432-618).

This report is issued unedited, in compliance with the wish expressed by the Human Rights Committee at its sixty-sixth session in July 1999.

Annex 1 (Statistical Yearbook 1995) to the supplementary report of the Netherlands is available with secretariat.

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Introduction

1. The present report is submitted in pursuance of article 40 of the International Covenant on Civil and Political Rights, and in accordance with the guidelines on periodic reports adopted by the Human Rights Committee. This fourth periodic report covers the period January 1991 (the date the third report was due) till September 1996. The subjects which were dealt with in the previous report and which remained unchanged during the period covered by this report, are not commented on. Part III.B of the previous Kingdom report, which provides general information on Aruba, has now been updated by Aruba's core document HRI/CORE/1/Add.68.

2. It is of essential importance to the present report, that in mid-1997 a new Code of Criminal Procedure for the Netherlands Antilles and Aruba will become effective. The text of the present Code is based on the Netherlands Code of Criminal Procedure of 1886. The concordance between the Netherlands Antilles and Aruba and the Netherlands system of criminal procedure was lost on 1 January 1926 by the introduction of a completely new Netherlands law of criminal procedure. Although adjustments were made in the Antillean and Aruban legislation occasionally, this could not prevent that the law of criminal procedure lagged somewhat behind modern standards.

3. The new Code of Criminal Procedure codifies inter alia the safeguards in case of detention, as they are stipulated under the various Human Rights Conventions (in particular the European Convention for the Protection of Human Rights) and international jurisprudence. Because international obligations under the Conventions are already taken into account in the administration of justice, most of these safeguards are already applied in practice. Outdated legislation that is contrary to the provisions of international conventions will not be applied by the courts. In addition, it should be pointed out that the new Code of Criminal Procedure creates more rights for the defendant in comparison with the present Code. The provisions in the new Code will be elucidated wherever necessary in discussing each separate article of the Covenant. However, one should take into account that the new Code has not yet become effective and that, consequently, it is not clear how certain provisions will work in actual practice. Presently, the Aruban Government is organizing courses to familiarize everyone involved (investigation officers, public prosecutors, judges, lawyers, etc.) with the operation of the new Code.

Article 1 - Right to self-determination

4. When Aruba obtained its current autonomous status in 1986 (the so-called "Status Aparte"), it was agreed that a review conference was to be held prior to 1996 by the countries within the Kingdom in order to reconsider, if necessary, the date of independence of Aruba in light of the political developments in the countries of the Kingdom.

5. In 1993, the three Kingdom partners discussed the future status of the Kingdom during two conferences. As regards Aruba, the parliaments of the Netherlands, the Netherlands Antilles and Aruba agreed to delete article 62 of the Charter of the Kingdom, which stipulated that Aruba was to become independent as of 1 January 1996.

6. The Act of the Kingdom of 24 December 1994 for amendment of the Charter of the Kingdom of the Netherlands became effective in 1995. It has now been provided that Aruba itself can decide by State Ordinance,[1] that it wishes to terminate the legal order, laid down in the Charter, as regards Aruba. The procedure to be followed for this purpose is laid down in the articles 58 through 60 of the Charter, and is as follows:

7. The Bill of such State Ordinance, when introduced into Parliament, should be accompanied by an outline of a future constitution which contains provisions with respect to basic human rights, government, representative body, administration and legislation, the administration of justice, and amendment of the constitution. Parliament can only adopt the Bill by a majority of two thirds of the votes of the number of incumbent members. Within six months after Parliament adopts the aforementioned Bill, a referendum to be regulated by State Ordinance, will be held in which the enfranchised citizens can express themselves on the Bill adopted. Only after the majority of the enfranchised citizens have voted in favour of the Bill will it be enacted.

8. After enactment of the State Ordinance and adoption of the future constitution by the Parliament of Aruba by a majority of at least two thirds of the votes of the number of incumbent members, the date of termination of the legal order laid down in the Charter as regards Aruba will be fixed by Royal Decree in conformity with the sentiments of the Government of Aruba.

Article 2 - Non-discrimination

9. Reference should be made to the previous Kingdom report on this provision, as well as the combined eighth, ninth, tenth, eleventh, and twelfth periodic report of Aruba on the Convention on the Elimination of All Forms of Racial Discrimination (CERD), and the initial Kingdom report on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

10. The injunction of equal treatment is formulated in article I.1 of the Constitution of Aruba, which is worded:

> "All persons in Aruba shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race, gender, colour, national or social origin, belonging to a national minority, property, birth, or any other grounds whatsoever shall not be permitted."

11. Article I.22 of the Constitution stipulates that statutory regulations will not be applied, if application would be incompatible with the provisions in Chapter I of the Constitution. Based on this article the courts have jurisdiction to test statutory provisions, among which also the provisions in State Ordinances, against the basic human rights provisions in Chapter I of the Constitution. Although democratic, legitimate political organs are the most appropriate bodies to determine whether a State Ordinance is in accordance with the Constitution, the individual has

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[1] In Aruba (and in the Netherlands Antilles) an Act is called "Landsverordening" (State Ordinance).

the right to invoke his fundamental rights in case of conflict before a court of law. It is the court, as an independent and impartial body, which will then decide if the provision is in accordance with the Constitution.

12. In supplementation of paragraph 437 of the previous report, it can be reported that a draft State Ordinance for the amendment of the State Ordinance Admission and Expulsion was introduced into Parliament on 12 October 1992. This draft abolishes inter alia the discriminatory provision in article 1 of the present State Ordinance, which distinguishes between the legitimate family of the man born in Aruba and the woman born in Aruba. This distinction has already been abolished in practice.

13. As regards paragraph 438 it can be stated that the State Ordinance Administrative Procedure was promulgated in 1993, and that it is to become effective on a date to be fixed by State Ordinance. This State Ordinance, which was introduced into Parliament on 15 March 1995, is still to be considered. The present situation is that a citizen can raise an administrative objection in certain cases (that is, to the body that made the decision). There is no possibility, however, to subsequently institute an administrative appeal, since there is no general administrative tribunal in Aruban yet. (Aruba does have a Tax Appeal Tribunal and a Civil Service Tribunal.) The citizen can however, (after having passed through the administrative objection procedure) apply to the civil judge, who, if necessary, can adjudicate on the dispute in three instances (Court of First Instance, Common Court of Justice, and the Supreme Court).

14. Once the State Ordinance Administrative Procedure becomes effective, the citizen will have the possibility to institute an administrative appeal to the administrative tribunal (still to be established). Also in this case it is required that the administrative objection procedure, if available, has to be followed first. Thus an independent appeal option will have been created, and the possibility to apply to the civil judge will cease to exist.

15. With regard to paragraph 443 of the previous report, it should be noted that admittance quota are no longer in force for nationals of the Dominican Republic or Haiti, or for any other nationals.

16. Part III.B of the previous Kingdom report mentions the possible introduction of Papiamento as language of instruction in schools. Due to the practical problems (instructional materials in Papiamento) involved in such introduction, progress in this field has been slow. However, on the initiative of the "Grupo Pa Promove Papiamento" (Group for the Promotion of Papiamento), the Department of Education drafted a State Ordinance Official Languages. The objective of this draft is notably the promotion of the use of Papiamento in writing in general, and of both the oral and written use of Papiamento by administrative bodies and civil servants. Point of departure is that both Dutch and Papiamento will be recognized as the official languages of Aruba. Despite the fact that the two languages are equal, Dutch will remain the language of the judiciary and legislation. This both for practical reasons, and because of the fact that the Aruban legal system is very closely related to the system of the Netherlands Antilles and the Netherlands. The Explanatory Note of the above-mentioned draft State Ordinance emphasizes the fact that the designation of two official languages in Aruba does not affect in any way the individual's right to use any language he desires, and the discrimination prohibition laid down in the Constitution (art. I.1), which also specifically mentions language.

Article 3 - Equal rights of men and women

17. For the sake of brevity reference is made to the first Kingdom report to the CEDAW and the ... Kingdom report to the International Covenant on Economic, Social, and Cultural Rights (ICESR). For recent figures on the position of women in the labour market and in the educational system, reference is made to the Statistical Yearbook of Aruba 1995.

18. On 8 March 1996 the Government established a National Bureau for Women's Affairs, with the objective to further promote women's rights in Aruban society. The establishment of the Bureau took place after a first impulse was given to a national discussion on the position of women in Aruban society in August 1995 by the national Symposium "Hende Muher Rumbo pa Siglo 21" (Women on the way to the twenty-first century), which was organized under the auspices of the Ministry of Public Health, Social Affairs, Culture and Sports. The recommendations made by the Symposium constitute a guideline for giving tangible form to the policy to be pursued as regards women. This policy is to be guided and coordinated by the Bureau for Women's Affairs Aruba.

19. On 8 September 1996 the Minister of Public Health, Social Affairs, Culture and Sports established a National Council for Women, within which a variety of expertise is assembled. The Council will advise the Minister on request or on its own initiative, in order to arrive at a national policy for women. The Council will also function as a liaison with the Minister as regards problems it observes in society, and as a support of the administrative body, the Bureau for Women's Affairs.

20. At the Fourth World Conference on Women in Beijing, September 1995, the importance of regional cooperation was emphasized in order to arrive at an optimal implementation of the Platform of Action. After making its national machinery operational, Aruba launched the initiative, on 8 March 1996, to implement the action items of the Platform of Action at a subregional level. In May 1996 a cooperation agreement on gender policy was signed between Aruba, the Netherlands Antilles and Suriname. This agreement supplements and supports the existing national policies and administrative bodies. Both at the national and regional level, the main objective is the empowerment of women as the basis for the welfare, family, and humanitarian policy.

Article 4 - Restrictions on derogations from the obligations under the Convention

21. The following can be reported to supplement paragraphs 452 and 453 of the third Kingdom report. Article V.29 of the Constitution of Aruba stipulates in what cases a state of emergency, to be designated as such by State Ordinance, can be proclaimed by State Decree in order to preserve external or internal security. By virtue of paragraph 2 of article V.29 it will be possible in such cases to deviate from the provisions in the articles:

(a) I.8 (right to free movement);

(b) I.11 (right to association);

(c) I.12 (right to free expression of opinion);

(d) I.13 (right to assembly and demonstration);

(e) I.15 (right to freedom of religion or belief in as far as it concerns the exercise of this right outside buildings and closed locations);

(f) I.17, first paragraph (entry of a dwelling without the explicit permission of the occupant in as far as this concerns the requirement of a special written court warrant);

(g) I.17, second paragraph, I.18 (confidentiality of the mail); and

(h) I.19, first paragraph (right to undisturbed enjoyment of one's property).

22. Since the Calamities Ordinance (SPG 1989, No. 59) became effective on 3 April 1992, Aruba has a frame act providing for the possibility to lay down implementating regulations in the aforementioned fields, with a view to combating calamities and protecting the population from calamities.

23. In order to give effect to the Calamities Ordinance, further rules were laid down by State Decree of 21 February 1992, regarding the return of goods requisitioned under the Calamities Ordinance, and the compensation for use, depreciation, damage to, and loss of these goods, as well as regarding persons who are required to render services pursuant to this State Ordinance, in connection with diseases and accidents, death benefits, compensation for services rendered, and the loss of income.

24. No state of emergency was proclaimed in Aruba at any time during the period 1991-1996.

Article 5 - Prohibition on narrow interpretation of the Covenant

25. With regard to this article, reference is made to the previous report.

Article 6 - Right to life

26. In supplementation of paragraph 467 of the previous report, it can be reported that the new Code of Criminal Procedure (CCP), which is expected to become effective mid-1997, devotes a separate chapter to the legal status of the injured party. The new Code reinforces the position of the injured party. This party can join in the criminal suit in the first instance with a claim not exceeding fifty thousand florins. For doing this it is required that the claim is not subjected to the judgement of the civil court, and that the claim is of such nature that it is suitable for a decision in a criminal case (article 374, paragraph 1, of the new Code of Criminal Procedure). Worth mentioning is, that the injured party can also join in case of a criminal act that is disposed of ad informandum.

27. One may already join in the case as an injured party (article 206, paragraph 1, new CCP) at the stage of the preliminary investigation. The result of this is inter alia that the injured party, who needs assistance and support due to the punishable act, will be given the mediation required for this purpose (article 206, paragraph 4, new CCP). In addition, if the wish to this effect has been expressed, the injured party will be informed by the Public Prosecutor on his decision whether or not to prosecute. If the case is prosecuted, the Public Prosecutor will inform the injured party of steps in the further procedure that are of importance to this party. If the case is not prosecuted, he will bring the option to lodge a complaint on account of non-prosecution to the attention of the injured party.

28. Furthermore, with regard to "victim support" facilities, mention can be made of the establishment in November 1995 of the non-governmental foundation "Fundacion pa Herde Muher den Dificultad" (Foundation for Women in Trouble). The Foundation's objective is to improve the position of women in general, fight domestic violence, in particular against women, and to offer help in such situations. It endeavours to achieve this inter alia by the establishment and maintenance of one or more shelters for those who fall victim to violence and or cruelty. The Government provides a subsidy to the Foundation.

29. With regard to the Committee's general comment 6 (16) concerning the quality of life, reference is made to the articles 11 and 12 of the ... Kingdom report on ICESCR. For population statistics, reference is made to the Statistical Yearbook 1995. In addition, Table 1 provides an overview of the infant mortality rate per 1,000 live births.

Table 1. Infant mortality

Year	Infant mortality per 1,000 live births
1991	5
1992	4
1993	3
1994	3

Source: Registry Office

30. As regards the quality of life, mention should be made of the so-called "Sasako project", which the Government presented in 1995, and which is aimed at upgrading the neglected area of San Nicolas. Within the framework of sustainable development, both economic and environmental considerations were taken into account in the development of this project.

Article 7 - Prohibition of torture

31. For the sake of brevity, reference is made to the second supplementary report of Aruba regarding the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

32. According to the Police Force Aruba, the Complaint Regulation mentioned in paragraph 479 of the previous report, turns out not to function properly in practice. This is partly due to the fact that the general public does not know of the possibility to lodge a complaint against a police officer in relevant cases, and is not familiar with the procedure to be followed. Furthermore, the Complaint Committee is only called in, if the person concerned does not agree with the decision of the Minister of Justice and applies to the Complaint Committee. Due to this, the Police Force is of the opinion that the Committee is involved in the case too late and there is no progress control. This is the reason why the Police Force took the initiative to amend the present regulation. A draft to this effect has been submitted to the Department of Legislation. In this draft the Complaint Committee is informed of the investigation at an early stage, and it can advise the Chief of Police on the settlement of complaints, upon request or on its own initiative. It is the task of the complaints coordinator to monitor the complaint procedure and the internal coordination of the handling of the complaint.

33. In this connection reference can also be made to what was stated in the second Kingdom report on CAT (art. 12) as regards the National Bureau of Criminal Investigation.

Article 8 - Prohibition of slavery

34. Below a supplementation is provided of the enumeration of main punishments and supplementary punishments, as stated in the third Kingdom report.

(a) Defendants who are non compos mentis. The judge may order that adult defendants, who are non compos mentis, are placed in a psychiatric hospital during a probation period not exceeding one year (article 39, second paragraph, Criminal Code of Aruba). The implementation of this measure falls under the operation of the Mental Health Ordinance. Although this option is sporadically used, its implementation meets with serious problems, because Aruba itself does not (yet) have a psychiatric hospital. Plans for a psychiatric hospital have been in the pipeline for years. In 1990 the Government established a committee with the task to compose a project file for the construction of a general psychiatric hospital in Aruba, to be financed with development funds.

The "PAAZ" ward (Aruba General Psychiatric Nursing Home) of the hospital only disposes of a limited number of beds for psychiatric patients with a criminal background. As a consequence the persons concerned remain in "Korrektie Instituut Aruba (KIA) (Correctional Institution Aruba), and are taken care of there with the help of the Medical Service, supported by a psychiatrist. Placement outside Aruba, e.g. in Curaçao or the Netherlands, based on article 40 of the Charter (judgements rendered by a court in the Netherlands, the Netherlands Antilles, or Aruba, can be enforcement throughout the Kingdom) turns out to meet with serious problems in actual practice.

The procedure within the framework of forced hospitalization in a psychiatric hospital is as follows. The Minister of Public Health issues an order for the provisional placement in a psychiatric hospital, after receipt of a certificate of a physician. If the hospitalization takes longer than five weeks, the Attorney-General of the Common Court of Justice of the Netherlands Antilles and Aruba has to request an extension, if the medical reports give cause for doing so. The extension may not exceed one year. Consequently, in case of forced hospitalization there

will be a review by the court. In addition to this, the Attorney-General of the aforementioned Court and the Director of the Directorate of Public Health have a general supervisory task as regards the hospitalization.

(b) The commission of minors to a youth custody centre. In the case of minors, who at the moment of the pronouncement of their sentence in the first instance have not yet reached the age of 18, the judge may order that they be commissioned to a youth custody centre. This measure may be imposed both with or without punishment. It is mainly meant as an educational measure, and should lead to the placement in a closed youth custody centre. Such centres do not exist in Aruba, so that enforcement meets with great problems. During the past years, this measure was imposed only once. Also in these cases, placement elsewhere in the Kingdom meets with serious problems.

As early as 1980, attention was drawn to this problem by the "Stichting Kinderbescherming en Reclassering" (Foundation for Child Welfare and Rehabilitation) and was brought to the attention of the Government. In 1990, a committee was established by Ministerial Order, which had to study the issue of the lack of possibilities to take care of needy juveniles/ young people with behavioural problems. Due to all kinds of unforeseen circumstances, the aforementioned committee only presented its note "Taking Care of Young People with Behavioural Problems" to the Minister of Justice on 13 November 1995. Upon presentation, the Minister requested the committee to take further steps to work out the recommendations in its note in further detail.

(c) Community service. Community service in Aruba is not based on any statutory regulation. Therefore, the way in which community service is given shape is a matter of referring to the Netherlands legislation, on the one hand, and on the other determining on what points deviation therefrom makes sense and is desirable for the Aruban situation. The Public Prosecutor's Office, in cooperation with the Aruban Foundation for Child Welfare and Rehabilitation, has drawn up a circular concerning community service. This circular describes the modalities, the criteria, the execution of the tasks of the persons and agencies concerned, and the procedure after having rendered the community service.

(d) Community service may be imposed in those cases in which it is intended to demand imprisonment not exceeding six months. This means that the total term of imprisonment (conditional and unconditional) may not exceed six months. When imposing community service the judge may consider the following options:

(i) Conditional imprisonment may be imposed, making the condition that a number of hours of community service must be rendered.

(ii) The trial may be suspended till the point in time that the community service has been rendered, after which the trial is resumed, and judgement is rendered while taking the community service rendered into account.

(e) Community service is rendered on a voluntary basis and may not exceed 240 hours. The office for the after-care and resettlement of offenders is charged with the guidance of the community service.

Compulsory military service

35. As regards compulsory military service it can be reported that the Aruban Council of Ministers, on the analogy of the Netherlands, decided in February 1996 to suspend the drafting of conscripts. No person has been drafted as of January 1996. Presently, 60 Aruban conscripts are still active in the marine barracks. However, they are so-called "volunteers serving extra time".

Article 9 - Right to liberty and security of person

36. In comparison with the present Code, the new Code of Criminal Procedure creates more rights for the defendant. One of the most important changes is that a suspect who is remanded in custody pending the investigation has to be brought before a judicial authority within three days (article 89, new Code of Criminal Procedure). This authority will then review the justness of the order before extending the remand in custody. In the present Code of Criminal Procedure the duration of the remand in custody is unlimited. In the new Code of Criminal Procedure this is 136 days. Consequently, the trial in court has to start within 136 days.

37. Moreover, with the introduction of the new Code, the legal basis is laid for a roster for lawyers providing for legal assistance given by lawyers to defendants who are in custody. The regulation notably concerns:

(a) the possibility of the lawyer to visit the defendant at the police station where he is staying during his custody;

(b) the possibility of the lawyer to provide legal assistance when the defendant is brought before the Public Prosecutor and the Committing Judge to verify the lawfulness and to consider the demand of the Prosecution to keep the defendant in custody.

38. The roster for lawyers is already applied in anticipation of the introduction of the new Code.

Article 10 - Treatment of persons deprived of their liberty

39. With reference to what was stated in the previous report with regard to the "Remand Center" it should be observed that the former prison is not used any longer for the temporary accommodation of aliens awaiting their expulsion. At present this takes place at the police stations, which were renovated in conformity with the recommendations of the European Council Committee for the Prevention of Torture (CPT). The former prison was recently renovated in order to house a drug rehabilitation centre for homeless drug addicts (locally called "chollers").

40. As regards table XIX in the 1991 report, it should be stated that the classification of detainees is no longer applied, and the "FOBA" facility (psychiatric facility) is no longer used, as the facility no longer meets the constructional requirements for such a facility.

41. It is the intention to replace in principle, the existing Prison Ordinance and Prison Decree, and some provisions in the Criminal Code, by the State Ordinance Enforcement Deprivation of Liberty. As regards the disciplinary punishments, a detailed procedure is being prepared in the draft State Ordinance Implementation Deprivation of Liberty. This procedure will offer detainees, in a number of cases, the possibility to lodge an objection to decisions of the Head of the institution, with an independent Complaints Committee. The members of the Complaints Committee are drawn from the Supervisory Committee.

42. The Supervisory Committee is an independent body consisting of a Chairman who is a member of the Common Court of Justice of the Netherlands Antilles and Aruba and six members from different professional groups. The Committee has several tasks, viz:

(a) to exercise supervision over all matters concerning the "Korrectie Instituut Aruba" (KIA) (Correctional Institution Aruba), in particular the treatment of detainees and the compliance with the regulations;

(b) to advise the Minister of Justice concerning matters relating to KIA;

(c) to advise the Director of KIA.

43. In its annual report the Committee noted that the often recurring complaints of the detainees notably concern insufficient possibilities to be active in the workshop, insufficient sports and recreational possibilities, and finally insufficient possibilities to study and follow courses. The Committee is under the impression that the cause of these complaints is partly to be found in a structural shortage of staff. Furthermore, the Committee expressed its concern as regards the circumstance that there is no separate facility to take care of the psychiatric patients. The confinement of such patients together with other detainees causes much tension and other problems for detainees and staff in practice. (Reference is also made to what was reported under article 8 with regard to this subject.)

44. Since January 1995, the "Instituto Pedagogico Arubano" (IPA) (Teacher Training College Aruba) has been operating the "Bureau Social Services". This Bureau organizes projects/courses in cooperation with social agencies and bodies, while taking the needs of the society into account as much as possible. After consultation with the social workers of KIA, it was decided to have some IPA students teach to minor, young detainees. Participation of the young people in KIA takes place on a voluntary basis. It is striking that since the start of the cooperation project between IPA and KIA, virtually all young people participate in the lessons offered. The lessons given so far concerned the subjects: arithmetic, the English language, the Dutch language, civics, relaxation exercises, and learning to cope in closed facilities.

Article 11 - Prohibition of detention on account of the inability to fulfil a contractual obligation

45. Aruban criminal law is based on the "nulla poena sine praevia lege poenali" principle. This principle has been laid down in article 1 of the Criminal Code, which stipulates in the first

paragraph that an act is only punishable by virtue of a prior statutory penal provision. This expresses the principle that punishment can only be imposed for acts that, prior to this act, were penalized under an explicit statutory provision.

46. Aruban criminal law does not recognize the possibility to impose imprisonment on persons, merely because of the fact that they do not (cannot) fulfil a contractual obligation. However, Aruban civil law (Code of Civil Procedure, article. 465 through 91) does provide for the possibility of civil imprisonment. Also see the previous report on this point. Civil imprisonment, or personal arrest, is an indirect execution remedy, and not a punishment. In certain cases the law grants creditors the right to have a debtor detained in a prison, until he has fulfilled his obligations. Civil detention (or personal arrest) is only possible if the civil imprisonment was imposed by virtue of a judgement. Moreover, civil imprisonment is not possible, if a debtor is condemned to pay an amount of money or a generic good. It is possible, though, in case of condemnation to give a certain object or to perform or omit acts. In actual practice civil imprisonment is hardly ever applied.

Article 12 - Right to leave one's country

47. Pursuant to article I.8 of the Constitution of Aruba "Everyone lawfully within the territory of Aruba shall have the right and liberty of movement within that territory, and of residence and freedom to choose his residence, without prejudice to the restrictions laid down by, or pursuant to, State Ordinance". The phrase "in cases laid down by, or pursuant to State Ordinance" provides the safeguard that restrictions of the freedom of movement may only be imposed on that basis.

48. The right to leave any country, including one's own, is restricted by statutory provisions: if the person concerned is being prosecuted for an offence; if he has been convicted of an offence (in the period of time that the judgement may not yet be executed); if he has to serve a term in prison; if he has failed to comply with financial obligations to the Government; or if he is doing military service. Based on the State Ordinance Settlement Tax Arrears in Case of Departure it is possible to prevent a tax subject from leaving Aruba, if the person concerned cannot present a certificate that there is no objection to his departure.

49. Under article 7 of the State Ordinance Admission and Expulsion conditions regarding the place of residence may be attached to temporary or permanent residence permits. In practice this happens only in the case of domestic servants of foreign origin who live at the homes of their employers. In addition to the contents of the third report, it should be noted that domestic servants living at their employers' homes, should be employed as such for five years, during which time they may change their employers, but not their occupation. Any such change of job within the five year period will result in the withdrawal of their residence permits. For the background of this measure reference is made to the previous report.

50. Based on the Passport Act, issue of a passport can be refused in certain cases, or a passport once issued can be withdrawn. There are no possibilities, however, to deny own nationals the admission to Aruba, if they dispose of valid travel documents. As regards the contents of the Passport Act which is an Act of the Kingdom, reference is made to the previous Kingdom report.

51. In 1994, a new Passport Implementation Regulation Netherlands Antilles and Aruba was enacted in replacement of the old regulation. The Implementation Regulation regulates the issue of travel documents in the Netherlands Antilles and Aruba. In Aruba, the Governor is the competent authority to take receipt of the application for, and the issue of travel documents. The Governor designated the Registrar of the Registry Office as the competent authority to issue national passports in as far as it concerns persons registered in the register of persons of the State of Aruba.

52. Pursuant to the articles 34 through 37 of the Act, a declaration of permission of the persons who exercise the parental power over the minor, or the guardian of the minor will have to be submitted in connection with the application for a passport for persons who are legally incompetent. If this declaration is refused by one of the parents, it can be replaced at the request of the other parent by a declaration of the judge in the first instance. Minors, sixteen years of age or older can apply to the judge themselves if this declaration is refused by both parents or the guardian. Also in case of entry of children under the age of sixteen in the passport of one of the parents, the presentation of a declaration of permission of the other parent is required.

Article 13 - Prohibition of expulsion without legal guarantees

53. The revised State Ordinance Admission and Expulsion has been pending in Parliament since 12 October 1992. In anticipation of the enactment of this State Ordinance, the Minister periodically promulgates guidelines concerning the aliens policy.

54. Each year over 10,000 applications for work and residence permits are processed by the Directorate of Public Order and Safety. This number includes both first applications and renewals. Each year some 25 to 30 applicants appeal a negative decision. Under the present legislation there is no possibility to lodge a complaint against, or institute an appeal in case a decision is not forthcoming. There is a possibility, however, to institute a civil procedure, and to force the competent authority to make a decision.

Article 14 - Entitlement to a free and public hearing

55. The following may be stated in supplementation to the previous report:

(a) Chapter VI of the Constitution of Aruba concerns the judicial system and the judiciary. Since 1 January 1986, the organization and composition of the judiciary in the Netherlands Antilles and Aruba is regulated in an identical way. In both countries proceedings are conducted before the Court of First Instance, with the possibility of appeal to the Common Court of Justice of the Netherlands Antilles and Aruba, and finally appeal to the Supreme Court in The Hague;

(b) The judicial power is only exercised by the judges who are members of the Common Court of Justice. Any intervention in lawsuits is prohibited (article VI.2 of the Constitution). In order to guarantee the impartiality of the judiciary, the President and the other members of the Court are appointed by the Crown for life. The appointment and discharge of the members of the Common Court is regulated in the articles VI.10 through VI.13 of the Constitution;

(c) Pursuant to article VI.5 trials have to take place in public, exceptions have to be stipulated by State Ordinance. The judgements and decisions of the court have to contain the grounds on which they were rendered or issued and, in criminal cases, the indication of the articles of the statutory regulations on which the conviction is based. The pronouncement of the judgements takes place in public.

56. Reference is made to the previous Kingdom report.

57. As regards procedural guarantees reference is also made to articles 12 and 15 of the second periodic report of Aruba on the CAT.

58. Aruban criminal law is based on the principle that a defendant always has the right to have himself assisted by a lawyer. The Code of Criminal Procedure stipulates that, a defendant has the right to have himself assisted by a lawyer during all hearings and the trial. The defendant is free in his choice of lawyer. The defendant who does not choose a lawyer, will be assigned a lawyer ex officio. If the defendant does not have sufficient means to pay for legal assistance, he will be assigned a lawyer free of charge.

59. In the new Code of Criminal Procedure the roster of the lawyers is regulated in articles 61 through 69. The assignment of a lawyer takes place by an agency to be designated by State Decree. The assignment will take place as much as possible in conformity with the defendant's preference. If the defendant is able to pay his lawyer himself, the expenses already incurred will be recovered from him.

60. Each defendant who has been taken into custody will be assigned a lawyer as soon as the order to take him into custody is given, unless he explicitly declared to waive his right to the assignment of a lawyer. The assignment remains in force during the custody. If no order to take into custody is given, a lawyer will be assigned as soon as the prosecution of the defendant is started. In case the defendant is mentally deficient or has a diseased mind, the committing judge will assign a lawyer ex officio during the preliminary investigation. At the request of the lawyer or of the defendant, a new lawyer can be assigned. The remuneration for the assistance will be paid out of public funds, in principle, unless the defendant's financial capacity is sufficient for this purpose.

61. The defendant always has the right to a public hearing of his case. This is inter alia expressed in the fact that a defendant can reject an out-of-court settlement offered. Furthermore, the Supreme Court decided that the public trial of a case has to be postponed at the defendant's request, if the defendant has brought forward convincing arguments why he cannot be present at the trial (Supreme Court, November 1977, Netherlands Jurisprudence 1978, 548).

62. On the other hand this right is expressed in the obligation of the defendant to be present himself at the public hearing. Only in certain cases, explicitly enumerated in the law, can a defendant have himself represented by a lawyer without being present himself at the trial. This is not intended to restrict the right of the defendant to a lawyer, but rather to act as a safeguard to ensure the defendant's presence at the trial.

63. However, a strict application of the law would imply that a defendant who is not present at the trial, in other cases than enumerated in the law, can be sentenced by default, despite the fact that his lawyer was present at the trial. The European Court for the Protection of Human Rights (ECHR), however, held in the (Netherlands) cases Lala and Pelladoah (ECHR, 22 September 1994, A 298-A and B), that such a sentence would be in violation of the right to a fair trial and the right to adequate defence, and consequently in violation of article 6 of the European Convention for the Protection of Human Rights. The judgements of the ECHR concerning self-executing provisions in the Convention (as is the case here) are observed by the Aruban judge and applied to the Aruban legislation.

64. Finally, it should be stated that a defendant may only be removed from the courtroom for certain reasons enumerated in the law.

65. Article 477 of the new Code of Criminal Procedure stipulates that nobody can be prosecuted criminally on account of an act committed before he reached the age of 12.

Article 15 - Principle of nulla poena sine praevia lege poenali

66. Further to the previous report, it is observed that the nulla poena principle, contained in article 1 of the Criminal Code of Aruba and article I.6 of the Constitution of Aruba, is not opposed to the application with retroactive effect of a law that provides for impunity, or that diminishes the penalties imposed. The second paragraph of article 1 of the Criminal Code stipulates on this point:

> "In the event of a change in legislation after the point in time the act was committed, the provision most favourable to the defendant shall be applied."

Article 16 - Right to the recognition as person before the law

67. The following can be observed in supplementation of the previous report. A natural person is deemed to exist before the law, that is, bearer of rights and obligations, at the time he is born. However, article 3 of the Civil Code of Aruba contains an exception. Article 3 stipulates that a child a woman is pregnant with, is deemed already born, "as often as its interest so require". There is question of such a case, if a legal fact presents itself as a result of which, if the child were already born, a right would have devolved upon this child (mostly rights related to property). In addition to the requirement stated above, the following conditions must also be met, namely that the child must have been procreated prior to the moment at which the legal fact presented itself, and that the child must be born alive.

Article 17 - Right to privacy

68. Supplementary to what is stated in the previous report as regards articles I.16, I.17, and I.18 of the Constitution, the following can be reported.

69. With regard to the protection against arbitrary interference in an individual's private life or correspondence as contained in the Constitution, article 387 of the Criminal Code penalizes the official who exceeded his authority by causing to be submitted to him or by seizing a letter,

postcard, document, or parcel, or a telegraphic message entrusted to a public communication institution, which is in the hands of an official or any other person charged with the supervision over, or with the administration of, the telecommunication infrastructure, or to have himself informed by such civil servant concerning the data communication.

70. Article 13 of the State Decree Use of Force and Body Search for Security by the Police stipulates that clothing and body searches must not exceed the limits of reasonableness and moderation, and that these searches may only take place by a police officer of the same gender. Only in very exceptional cases is deviation from this provision possible.

71. With regard to paragraph 534 of the previous report, it can be reported that the Bill of the State Ordinance containing rules for the protection of personal privacy in connection with registration of personal data (State Ordinance Registration Personal Data) has not yet been completed.

72. With regard to paragraph 537 of the previous report, it can be reported that the State Ordinance Amendment Criminal Code for the Penalization of Tapping Phone Calls and Data Communication became effective on 22 December 1993. It contains two exceptions to the penalization of tapping: 1. in the interest of the security of the State (the security tap) and 2. tapping for the purpose of criminal proceedings.

73. Presently, the tap for criminal proceedings has not yet been regulated by law and, consequently, is impossible. In the new Code of Criminal Procedure the tap for the purpose of criminal proceedings is regulated in articles 167 through 174. The tapping procedure is as follows.

74. The Public Prosecutor submits a substantiated demand to the committing judge, who is the competent authority to issue a special warrant for tapping data communication. The warrant is only granted if there is serious suspicion that a person suspected of a criminal offence is participating in the data communication, or that another person or persons participate herein on instruction of the suspect, for which criminal offence he may be taken into custody. Only the investigating officers whose names are stated in the warrant are authorized to tap. The term of the warrant is 14 days, and may be extended after a substantiated demand of the Public Prosecutor for another 14 days. A report of the tap will be drawn up within two times 24 hours. After the tap, the committing judge will inform the holder of the connection and the suspect of the tap, and of the period of the tap. The suspect may also peruse the above-mentioned report.

75. During the trial, and if the interests of the defence so require, the judge may permit the defendant at his request to inspect the contents, in whole or in part, of the data communication tapped, inasfar as he participated in it himself. As soon as the interest of the investigation permits this, the relevant data will be added to the documents of the case. The data not relevant to the case will be destroyed as soon as possible, and a report will be drawn up of this destruction.

Article 18 - Freedom of religion and belief

76. Table II provides an indication of the religions that are actively practised in Aruba. There are a great number of churches and places of worship in Aruba. Although the majority of the Arubans are Roman Catholics, religious minorities are given every opportunity to practise their faith.

77. Pursuant to article I.15 of the Constitution, everyone has the right to practise his religion or belief, either individually or in community with others. In certain cases limitations may be imposed by law. The grounds set forth in article 18, paragraph 3 of ICCPR are also incorporated in the Aruban Constitution. Such limitations, however, have never been imposed in practice.

Table II. Religion (in percentages)

	1960	1972	1981	1991
Roman Catholic	79.7	88.2	88.5	86.2
Methodist	5.9	3.8	2.4	1.6
Anglican	1.9	1.1	0.9	0.7
Adventist	-	0.4	0.6	0.6
Protestant	7.9	3.8	2.8	2.7
Evangelist	-	-	0.6	2.0
Jehovah's Witness	-	-	1.1	1.3
Muslim	-	0.0	0.0	0.3
Jewish	0.4	0.1	0.2	0.2
Other	2.5	1.4	1.3	1.5
No religion	1.7	1.2	1.6	0.1
Total	100.0	100.0	100.0	100.0

Source: Population Censuses 1960, 1972, 1981 and 1991.

78. The main principles on which the Aruban educational system is based are laid down in article I.20 of the Constitution, which guarantees the freedom to provide and receive education, within the limits laid down by State Ordinance. The main restriction on the provision of education is that the Government may monitor the quality of education.

79. Furthermore, article I.20 of the Constitution stipulates that "education shall be of constant concern to the Government" and that State education will be regulated by State Ordinance, respecting everyone's religion or belief. This article distinguishes between State and private education. Parents are completely free to determine which school they send their children to. The great majority of the schools are private schools. This is closely related to the fact that the Roman Catholic Church played a major role in organizing education in Aruba. Most schools are denominational schools, e.g. Catholic and Protestant schools, and are fully subsidized by the Government. The conditions on which private primary, secondary, and preparatory higher schools receive subsidies out of the public funds are regulated by State Ordinance. The State schools are administered by the Government

80. Education in State schools is freely available to everyone, and is provided with respect for everyone's religion or belief. This does not mean, however, that no religious education can be provided in these schools at all. Providing the timetable allows for this possibility, students whose parents or guardians express a wish to this effect, can receive religious education (article 38 of the State Ordinance Primary Education and article 45 of the State Ordinance Secondary Education).

81. The following may be stated with regard to the position of conscientious objectors. The State Ordinance Compulsory Military Service provides a limitative enumeration in article 15 of the grounds on which exemption from military service can be granted. The adherence to a certain religion is not one of them. There is a possibility, however, to grant exemption from military service based on the fact that there is question of "exceptional circumstances". In practice it only occurred a few times that one claimed exemption from military service on the grounds of conscientious objections. Notably in case of Jehovah's Witnesses. In these cases the Minister responsible (General Affairs) did indeed grant exemption based on "exceptional circumstances". As has already been stated under article 8, compulsory military service has been suspended.

Article 19 - Freedom of expression

82. Presently nine local newspapers are published in Aruba, and eleven local radio stations and three local TV stations are in operation. Furthermore, the greater part of the population has cable TV, making it possible to watch a large number of TV stations from the United States and Venezuela, among which CNN and NBC. Foreign publications, dailies, weeklies, and monthlies are also amply available in the local bookstores.

83. A licence is required for the operation of a TV station, which licence is granted for 10 years, and to which conditions may be attached. The licence is cancelled, if one or more conditions of the licence, or one or more regulations in the State Ordinance are not complied with. One provision is that broadcasts may not be detrimental to the sound mental development of the population.

84. In addition to this, if the security of the State, public order or morals, the protection of the reputation of others, disclosure of confidential information, or safeguarding the authority and impartiality of the judiciary, make broadcasting a programme partially or wholly undesirable, the broadcasting of this programme or part thereof can be discontinued by order of the Minister of Justice. An appeal to the Governor against this decision is possible.

Article 20 - Prohibition of war propaganda

85. With regard to paragraph 2, reference is made to the previous Kingdom report and Aruba' s comments in the combined eighth, ninth, tenth, eleventh, and twelfth periodic report of ICERD.

Article 21 - Right of assembly

86. With regard to this article, reference is made to the previous report.

Article 22 - Freedom of association

87. With regard to this article reference is made to the previous report, the Kingdom report of ICESCR and the combined eighth, ninth, tenth, eleventh, and twelfth periodic report of ICERD.

88. With regard to paragraph 554 of the previous report, it should be noted that an Aruban Human Rights Committee was established in 1991. Its members are recruited from government agencies and non-governmental organizations. By decision of the Ministerial Council of 29 September 1993, the Human Rights Committee was given a formal basis, and has the following tasks:

(a) To advise the government on human rights issues;

(b) To comply with reporting obligations in pursuance of international human rights conventions;

(c) To promote general awareness among the public regarding human rights.

89. The establishment of a Human Rights Committee has two beneficial effects: firstly, it designates certain persons as permanent liaison officers, and secondly, it raises awareness of the existence and importance of human rights within the relevant government bodies.

90. As regards political elections it can be reported that four political parties participated in the most recent election which took place in 1994. Participation in the election requires a candidate list which has to meet certain conditions imposed by the Election Ordinance. Among other things, such a list has to be supported by a required number of signatures of people entitled to vote. No cases of rejection of an application to establish a political party are known.

Article 23 - Protection of the family

91. With regard to this article, reference is made to article 10 of the ... Kingdom report of the ICESCR.

Article 24 - Protection of the child

Convention on the Rights of the Child

92. Although many of the rights the Convention on the Rights of the Child intends to protect, have already been laid down in other human rights conventions in effect for Aruba and, consequently, a certain basic infrastructure for the implementation of the Convention is already in place, the Convention on the Rights of the Child entails a number of additional obligations. Presently, the additional implementing legislation required is being drafted for this purpose. As soon as this process is completed the Convention on the Rights of the Child will also become effective for Aruba. This matter is closely monitored by the non-governmental organizations active in the field of youth welfare and the Aruban Parliament.

Organizations in the field of child and adolescent welfare

93. In Aruba, a great number of organizations is active in the field of child and adolescent welfare. The greater part of these organizations is associated in the umbrella organization "Asociacion Trabao di Hubentud" (Association for Youth Welfare Work). The association's aim is to promote youth welfare work in Aruba, among which notably:

(a) To promote the interests of children and adolescents;

(b) To offer all kinds of educational activities in the cultural, educational and recreational field;

(c) To take care of assistance to young people who are threatened by moral or physical downfall.

94. On 12 June 1991, the "Fundacion Pa Nos Muchanan" (Foundation for our Children) was established with the aim to support the organized provision of non-medical and non-pedagogic childcare for children under the age of 14 in order to extend and improve the quality of, the education of, and care for these children. Another goal of the Foundation is to provide the public with information on the matter of rearing children. Specific courses aimed at parents are well attended. At present the Foundation is completely subsidized by the government.

95. The "Fundacion Respeta Mi" (Foundation Respect Me), the foundation against child abuse, started its activities a few years ago. The Foundation' s objective is to look after the interests of minor victims of sexual abuse. The Foundation has two goals, namely: to make parents, educators, and the community in general aware of the danger of child negligence; and to make everyone aware that negligence has to be fought by means of joint efforts. In September 1996, the Foundation launched a month-long awareness campaign which included radio and TV spots, distribution of informative fliers and brochures, newspaper slogans and articles, distribution of posters and stickers, and lectures, all focusing on the theme "Attention, care, and love, the foundation for the future".

96. In view of the necessity of a policy to tackle the issue of child abuse in general, and sexual abuse in particular, the Coordination Committee against Sexual Abuse, a cooperation between the (welfare) institutions, is drawing up a policy document on the subject.

97. In anticipation of the realization of an integral policy plan, the Council of Ministers established a Medical Advice Centre at the request of the Coordination Committee against Sexual Abuse. This Centre, which comes under the Department of Public Health, functions as a central reporting and registration centre. It receives reports, and coordinates the investigations into them. It is also the intention to put the Centre in charge of the coordination of the assistance to be rendered. This implies consultations with the relevant institutions in order to initiate the assistance, as well as to monitor and see to the realization of the supply of assistance agreed on.

98. For over 10 years, the "Fundacion Anti Droga Aruba" (Foundation against Drugs Aruba) and the "Parents Resource Institute for Drug Education" (FADA/PRIDE) have organized activities aimed at the prevention of legal and illegal use of drugs. By providing information, it

tries to give young people the tools to enable them to make sound decisions on their own well-being and health. In connection herewith a curriculum was developed for primary and secondary schools, which is also aimed at the improvement of communication among students and teachers. Each year, this organization organizes a "Red Ribbon Week", during which attention is paid to the use and abuse of drugs, and to the alternatives for the use of drugs.

99. In addition to the aforementioned organizations there are also many other organizations for the benefit of children and young people. However, it would go too far to discuss them all in detail within the framework of this report.

Integral youth policy plan

100. Presently, the Department of Social Affairs, in cooperation with various non-governmental organizations active in the field of youth welfare, is working on an integral youth policy plan. The endeavours of the Department of Social Affairs are aimed at the creation of such conditions/infrastructure (e.g. a youth telephone and a Youth Council) that will enable young people to express their own opinions as regards those affairs that are of importance to them. The objective is to give the young a say, and reinforce their sense of self-respect and responsibility.

101. Specific projects are also being developed in the "barrios" (residential areas and districts) for the different age groups. These projects are not only aimed at the various kinds of leisure activities, but also intended to develop the creativity of children and young people by means of play and expression, and to reinforce the sense of self-respect. In addition, activities are being developed aimed at the improvement of communication and interaction among the young and the adults.

102. One can also apply to the Department of Social Affairs for specific problems within the family. Presently, this department is working on the realization of a further professionalization in order to be able to offer more adequate assistance.

103. In those cases in which domestic and or educational problems have assumed such proportions that placing the child into care is necessary, there are three children's homes in Aruba which offer shelter, care, and guidance. When the children go back home, the Department of Social Affairs offers family counselling to the families of which a child was placed in a children's home because of domestic problems. It is the intention to expand this form of assistance in the near future, in order to be able to provide direct guidance to families by means of house calls to avoid that children have to be placed in a children's home as much as possible. The most common problems of children placed in children's homes are neglect, maltreatment, and sexual abuse. Furthermore, shelter and counselling is offered to orphans. In these cases, however, it is also the intention to find a foster home for these children.

Handicapped children

104. At present, Aruba disposes of a family-substituting home for the mentally handicapped. This home is especially meant for adults. However, there is also the foundation "De Geestelijk Gehandicapten" (The Mentally Handicapped), offering day-time education, care, and guidance to

the mentally handicapped children. A day-time programme for the physically handicapped is offered by the foundation FUNARI. The "Fundashon Arubano di esnan Visualmente Incapacita" (FAVI) (Aruban Foundation of the Visually Handicapped) and "Fundacion pa Esnan cu Problema di Oido" (FEPO) (Foundation for the Hearing Impaired) offer assistance, guidance, and support to visually handicapped children and hearing impaired children, respectively. These foundations also provide guidance to the parents of these children. The school "Scucha Nos" also comes under the FEPO. This school provides special day-time education to hearing impaired children.

Day care

105. As a result of the scarcity of labour, unemployed mothers are called on more and more often to participate in the labour process. At this moment there are some 85 day-care centres in Aruba. In order to regulate the quality of the day-care centres, the government intends to introduce a State Ordinance Day-Care Centre. For this purpose the permanent Committee of Parliament drew up a private Bill, and submitted it to the relevant institutions for comments. Meanwhile the adapted Bill has been introduced into Parliament. However, not only a statutory regulation, but also a supporting structure is required to be able to guarantee the quality of the day-care centres.

106. One of the major bottlenecks in the introduction of the State Ordinance concerns the education requirements for the people working at these centres. In September 1996, the Department of Social Affairs, in cooperation with the "Fundacion Pa Nos Muchanan" (FPNM) (Foundation for our Children), and the Department of Education initiated crash courses for the benefit of the people already working in the day-care centres. This training intends to provide a basis for a qualitatively proper care, as well as to give an impulse to further professionalization of the profession. The supporting activities of the FPNM have led to it inter alia that the realization of the necessity of regulation of the quality of day care, has also grown among the day-care centres. With the introduction of training, one of the most important conditions to introduce the State Ordinance Day-Care Centres was met.

107. The government also devotes special attention to the after-school care, in order to give parents real possibilities to participate in the labour process. The project "Traimerdia" is meant for pupils of the kindergartens and primary schools, and has to meet all requirements of a pedagogic and educational nature.

Foundation for Child Welfare and Rehabilitation

108. The aim of the Aruban Foundation for Child Welfare and Rehabilitation (after-care and resettlement of offenders) is to contribute to the welfare of the Aruban society by means of both the rehabilitation of those who fell foul of the criminal system, and the protection of minors from infringements of their rights. Therefore the Foundation's object is worded:

(a) looking after the interests of people convicted by the courts, whether or not conditionally, and of those who have been entrusted to the Foundation's care by the Public Prosecutor;

(b) to take or stimulate both preventive and repressive measures for the purpose of the moral and/or physical well-being of minors.

109. The Child Welfare section deals with child and juvenile criminal cases, and, from a preventive point of view, it also deals with cases of minors with behavioural problems reported by parents and guardians.

Guardianship Board

110. As main tasks of the Guardianship Board the following can be mentioned:

(a) the care of minors who have been entrusted to the care of the Guardianship Board by virtue of any statutory provision, by the Courts, or the Public Prosecutor;

(b) to advise the Court in adoption cases, parental custody cases, and cases of restoration or change in guardianship or parental authority;

(c) to investigate the interest of the minors and, if necessary, enforce the child protection measures provided by law, such as commission and placement under supervision of minors, divestiture of parental power of parents or guardians, adoption of children, and exercising supervision over children placed in foster families.

111. In doing this, the Guardianship Board works closely with the police, the Public Prosecutor, and other government agencies active in the social field, such as the Department of Social Affairs and the Department of Education. Furthermore, the Guardianship Board organizes preventive lectures for community centres, youth and group leaders, schools, etc.

112. Both the Guardianship Board and the Child Welfare Board have drawn the attention to the lack of possibilities to take care of young people between the ages of 14 and 16 who fell foul of the judicial system, as well as for minors with psychopathological defects (often coupled with delinquency).

113. For the sake of completeness, reference can also be made as regards the present article, to the first Kingdom report on the CEDAW Convention and the ... Kingdom report on the ESOCUL Convention.

Article 25 - Right to take part in public affairs

114. Further to the previous report it can be stated that all enfranchised citizens could cast their votes in the elections of 1993 and 1994. By virtue of the State Decree containing General Administrative Orders of 5 November 1992 for the amendment of the Election Decree, persons who are lawfully deprived of their liberty can vote in a special polling station at the location where they are detained.

Article 26 - Prohibition of discrimination

115. As regards this article, reference is made to the Kingdom's first report on CEDAW, the combined eighth, ninth, tenth, eleventh, and twelfth periodic report on CERD, and the ... report on the ICESCR.

116. In supplementation hereof it can be reported that as regards the articles 2, 3 and 26 of the present Covenant there is quite some jurisprudence, although not always based on the Covenant but on the Constitution. Generally speaking, invocation of the principle of equality or the prohibition of discrimination is honoured, provided there is indeed question of "equal circumstances".

117. With regard to the equal treatment of men and women there is a lot of jurisprudence. In the vast majority of cases these appeals have been honoured. An example is the series of judgements concerning equal treatment for equal work. The Court of First Instance of Aruba rendered several judgements concerning equal payment for married male and female employees. Also the Board of Appeal for the Civil Service made various decisions in this field. In all these decisions it is held that a difference in remuneration between (married) men and (married) women who have a similar job, is in violation of article 26 of the present Covenant and article I.1. of the Constitution of Aruba.

Article 27 - Minorities

118. With regard to this article reference is also made to the combined eighth, ninth, tenth, eleventh, and twelfth periodic report of ICERD.

119. In supplementation hereof it can be reported that on 1 March 1995 the Lower Chamber of the Netherlands parliament adopted an amendment to the Act of the Kingdom of the Netherlands Nationality. This amendment implies that foreigners who become Netherlands nationals through naturalization, retain their original nationality, and have dual nationality. Since this concerns an Act of the Kingdom the aforementioned amendment also applies to Aruba. Now that obtaining the nationality of the guest country does not automatically imply the loss of the original nationality, this less strict position as regard the possibility of dual nationality could make an important contribution towards the integration of aliens in the Aruban society.